IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 79 OF 2007

SARVA SHRAMIK SANGHATANA)
'Shramik')
Dadar (East),)
Mumbai - 400 014.)

V/s.

1. Bombay Dyeing & Manufacturing)
Co.Ltd., New Prabhadevi Road,)
Mumbai 400 025.)

2. Rashtriya Mill Mazdoor Sangh)
G.D. Ambekar Marg, Patel,)
Mumbai 400 012)

3. The Registrar,)
Under the Bombay Industrial)
Relations Act,)
Commerce Centre, Tardeo)
Mumbai 400 034.)... Respondents

Mr.N.M. Ganguli for the Petitioner.
Mr.C.U. Singh with Mr.T.S. Shetty and Mr.Santosh Shetty for Respondent No.1.
Mr.R.S. Pai with Mr.Shailesh Pathak for Respondent No.2.
Ms.Mamta Sadh, AGP for Respondent No.3.

CORAM : V.M. KANADE, J.

DATED : MARCH 28, 2007

ORAL JUDGMENT :-

1. Heard the learned Counsel for the petitioner and the learned Counsel for the respondents.

2. The petitioner takes exception to the agreement executed between the respondent no.1 and the registered union dated 3.9.2006. It is the case of the petitioner is that this agreement is not in the interest of workers.

3. The learned Counsel for the petitioner has submitted that the agreement is not in conformity with the notice of change which was given by the employer. It is further submitted that as a result of this agreement, the company would close down and as a result of that, the petitioners who are the remaining 68 workers are seriously affected. He also submitted that this agreement is in violation of 25(o) of the Industrial Disputes Act, 1947. He invited my attention to the notice of change and also the various promises in the agreement which was executed between the respondent no.1 company and its registered union. He also invited my attention to the impugned order and submitted that the said order is in violation of provision of Section 44 of the Bombay Industrial Relations Act, 1946.

4. In my view, the submissions made by the learned Counsel for the petitioner cannot be accepted. It is an admitted position that the petitioner representing the employees of respondent no.1, is an unregistered union and respondent no.1 has executed agreement with the registered union on 3.9.2006. There is no procedural irregularity in respect of issuance of notice of change. Out of 1900 workers, almost 1835 workers have accepted Voluntary Retirement Scheme and the workers who have not accepted the scheme are assured to be given alternate work. Further, though it is submitted that the workers who are coerced in the form of financial allurement to accept the Voluntary Retirement Scheme, no complaint admittedly has been received of threat or coercion being exercised against those workers who have accepted the Voluntary Retirement Scheme. Further, the agreement clearly stipulates that those workers who do not accept the Voluntary Retirement Scheme would be given alternate jobs and proper training also would be given to them and their services would not be terminated.

5. Considering this background and the agreement

which is executed between the parties, in my view, the interest of the workers is seriously not affected and the majority of the workers have in fact accepted the Voluntary Retirement Scheme. The remaining workers are also protected in view of Clause H of the said Agreement which stipulates that the workers will not be terminated but would be reemployed after they are given adequate training. The Assistant Labour Commissioner has considered all these aspects and there is no infirmity in the said order. Further, even otherwise, the petitioner representing is unregistered union does not have locus to challenge the agreement which is executed between the company and the registered union. However, in order to examine the issue on merits, I have considered the submissions which are made on merits by the learned Counsel for the petitioner. In any event,there is no reason to interfere with the impugned order while exercising writ jurisdiction under Article 226 of the Constitution of India.

. Writ Petition, is accordingly, disposed of.

(V.M. Kanade, J.)